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Attorneys for Defendant Google LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

CHASOM BROWN, individually and on
behalf of all similarly situated,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

Case No. 5:20-cv-03664-YGR-SVK

**DECLARATION OF SARA JENKINS IN
SUPPORT OF MOTION TO STRIKE**

Referral: Hon. Susan van Keulen, USMJ

1 I, Sara Jenkins, declare as follows:

2 1. I am a member of the bar of the state of California and of counsel at Quinn Emanuel
3 Urquhart & Sullivan, LLP, attorneys for Google LLC (“Google”) in this action. I make this
4 declaration of my own personal, firsthand knowledge, and if called and sworn as a witness, I could
5 and would testify competently thereto.

6 2. The document bearing Bates number GOOG-BRWN-00857642 was reviewed in
7 connection with discovery in this action and initially entirely withheld as privileged and included
8 on Google’s privilege log.

9 3. In compliance with orders issued by Magistrate Judge Susan van Keulen in this
10 action, Google conducted a re-review of certain categories of documents on its privilege logs, which
11 included GOOG-BRWN-00857642.

12 4. The reviewers who re-reviewed GOOG-BRWN-00857642 were unaware that all
13 communications in the document were made pursuant to the direction of a Google attorney and
14 furthered an internal investigation to obtain information necessary for that attorney to provide legal
15 advice regarding an active regulatory inquiry. Accordingly, the reviewers determined that the
16 document should be produced with redactions to some but not all emails in the chain.

17 5. Google produced GOOG-BRWN-00857642 with redactions on July 21, 2022.
18 Google’s production of this document, which contains its privileged information, was inadvertent.

19 6. On August 25, 2022, Plaintiffs filed a Reply in Support of their Supplemental
20 Sanctions Brief (Dkt. 708) (the “Reply”). That brief discussed and quoted the privileged contents of
21 GOOG-BRWN-00857642, and specifically referred to an internal audit that Google conducted
22 during the course of a privileged investigation (which GOOG-BRWN-00857642 describes). Upon
23 reviewing the Reply, Google realized that it had inadvertently produced GOOG-BRWN-00857642.

24 7. On August 26, 2022, Google sent counsel for Plaintiffs a letter providing notice that
25 it was clawing back GOOG-BRWN-00857642 pursuant to the Stipulated Protective Order (Dkt. 81)
26 and Stipulated Order re: Discovery of Electronically Stored Information (Dkt. 80) entered in this
27 matter.

